

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

In re:

Daniel Eugene Brown,  
Kendra Sue Brown  
Debtors

Bankruptcy No. 10-43280  
Chapter 7 Case

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**NOTICE OF MOTION AND MOTION TO  
APPROVE BREAK UP FEE IN PROPOSED SALE OF ASSETS**

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To: All parties in interest as listed in Local Rule 9013-3

The trustee of the bankruptcy estate of the above-named Debtor, requests approval of its proposed sale of certain real property interests. In support of its request, the trustee states as follows:

**NOTICE OF HEARING**

1. The court will hold a hearing on this motion at 1:00 pm on December 2, 2010, in Courtroom 7 West, of the United States Courthouse, 300 South 4th Street, Minneapolis, Minnesota 55415, or as soon thereafter as counsel may be heard.
2. Any objection or response to this Motion must be filed and served by delivery not later than November 27, 2010, which is five (5) days before the date and time set for the hearing (including Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

**MOTION**

3. On April 30, 2010, Debtor commenced its reorganization by filing a voluntary petition for relief under chapter 7 of title 11 of the United States Code (the "Bankruptcy Code").
4. This court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334,

Federal Rule of Bankruptcy Procedure 5005 and Local Rule 1070-1. This Motion arises under 11 U.S.C. §363 and Bankruptcy Rules 6004 and 9019. This Motion is filed under Bankruptcy Rule 9014 and Local Rules 9001 et seq. This proceeding is a core proceeding.

5. Debtor owns a one-third life estate remainder interest (the "Remainder Interest") in certain real property (the "Property").

6. The trustee has received a proposed purchase offer for the Remainder Interest from JM Partners, LLC, P.O. Box 29940, Richmond, VA 23242-0940 ("JM Partners"). The purchase offer is contingent on JM Partners receiving a break up fee of 10% of the offer price should an alternative offer be accepted by the trustee and approved by the court.

7. The trustee believes that approval of the break up fee is in the best interests of the estate and should be approved. By authorizing the break up fee, the estate ensures that it will receive an adequate bid and may encourage higher bids. Any competing bidder will be required to bid a minimum of 10% higher than the original bid in order to compensate the estate for the break up fee.

**WHEREFORE**, Debtor moves the court for an order:

A. Authorizing the trustee to grant JM Partners a break up fee based on 10% of the JM Partners offer should an alternative offer be accepted by the trustee and approved by the court;

B. Granting such other and further relief as the Court may deem just and proper.

Dated: November 4, 2010

/e/ Erik A. Ahlgren  
Erik A. Ahlgren, attorney # 191814  
Ahlgren Law Office  
220 West Washington Av., Suite 105  
Fergus Falls, MN 56537  
218-998-2775

Attorney for Trustee

### **Verification**

I, Erik Ahlgren, the moving party in the foregoing notice of hearing and motion, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated: 11/04/10

/s/ Erik A. Ahlgren  
Erik Ahlgren, Trustee

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**UNSWORN CERTIFICATE OF SERVICE**

I, Lisa Tuel-Ahlgren, declare under penalty of perjury that on November 4, 2010, the following parties were served electronically via CM/ECF

Steven Heller, [steve@hellerlawfirm.com](mailto:steve@hellerlawfirm.com)  
Office of the United States Trustee, [ustpregion12.mn.ecf@usdoj.gov](mailto:ustpregion12.mn.ecf@usdoj.gov)  
Bac Home Loans Servicing, LP  
HSBC Bank Nevada  
Hiway Federal Credit Union

And by U.S. Mail to:

Daniel and Kendra Brown  
536 20<sup>th</sup> Ave N.  
Sartell MN 56377

JM Partners, LLC  
PO Box 29940  
Richmond VA 23242

Katherine J. Brown  
248 Cannon View Dr.  
Red Wing MN 55066

David S. Brown  
2225 Bush St.  
Red Wing, MN 55066

Steven P. Brown  
248 Cannon View Dr.  
Red Wing, MN 55066

Executed on: November 4, 2010

Signed: /e/ Lisa Ahlgren  
Lisa Ahlgren  
220 W. Washington Ave, Ste 105  
Fergus Falls MN 56537

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**ORDER APPROVING BREAK UP FEE IN PROPOSED SALE OF ASSETS**

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This matter came before the Court upon motion by the trustee in the above referenced case, seeking approval of a break-up fee in connection with a proposed sale of assets. Appearances were noted for the record at the time of the hearing. Based on the file, record and submissions:

**IT IS ORDERED:**

The trustee is authorized to grant a break up fee based on 10% of the initial offer price should an alternative offer be accepted by the trustee and approved by the court.

Dated:

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United States Bankruptcy Judge